

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3363 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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M K BHAVSAR

Versus

STATE OF GUJARAT

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Appearance:

MR DC RAVAL for MR ANAND for Petitioners  
MR DA BAMBHANIA for Respondents Nos.1 & 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/05/98

ORAL JUDGEMENT

The petitioners before this court are NFC (National Fitness Corps) Instructors appointed in Non-Government Secondary Schools situated in various parts of the State. The petitioners possess the qualification either of SSC and C.P.Ed. (Certificate in Physical Education) or Graduation and C.P.Ed. The pay of the Government servants was revised in the year 1975 with

effect from 1st January, 1973. Pursuant to the said pay revision, the Government on 1st January, 1976, issued a resolution prescribing the payscales of the teaching and non-teaching employees of the non-Government Secondary Schools to be effective from 1st January, 1973. Under the said Resolution, three different scales of pay were prescribed, for trained graduate teachers, untrained graduate teachers and untrained non-graduate teachers. The said teachers, however, claimed selection grade. Pursuant to the said claim, the Government issued a Resolution on 23rd July, 1981 (Annexure-D to the petition), the Government resolved that under the relevant rules, the employees of the non-Government Secondary Schools were not entitled to selection grade, however, a higher grade in lieu of selection grade was sanctioned for the Graduate trained and Graduate un-trained teachers with effect from 1st July, 1979. So far as the non-graduate untrained teachers were concerned, they were sanctioned four increments as on 1st June, 1980. The said benefit was extended to NFC Instructors who were formerly serving under the Central Government under the Government Circular of January, 1982 (Annexure-C to the petition).

Mr. Raval, the learned advocate appearing for the petitioners has submitted that though untrained non-graduate teachers possess the qualification of SSC, STC, while the petitioners possess the qualifications of SSC, C.P.Ed. Thus, the petitioners possess the qualification similar to those of non-graduate untrained teachers. Further, the petitioners are NFC Instructors though not appointed by the Central Government. Mr. Raval has submitted that the petitioners are thus similarly situated as non-graduate untrained teachers as well as NFC Instructors formerly appointed by the Central Government. The petitioners should have, therefore, been extended the same benefit as has been extended to the other similarly situated secondary school teachers under the Government Resolution dated 23rd July, 1981. Mr. Raval has submitted that the petitioners have already made representations in this respect to the Government, however, same have not been responded to.

The petition is not contested by the respondents. On the facts and in the circumstances, it appears that it would be just and expedient that the petitioners shall make a fresh representation in the subject matter of this petition to the State Government, and the State Government should consider and decide the same on merits. Mr. Raval agrees that the petitioners shall make a fresh representation in the subject matter of this petition

within a period of six weeks from today. The respondents are directed to consider the representation that may be made by the petitioners hereafter on merits and decide the same within a period of four months from the date of receipt of the representation. The decision shall be communicated to that petitioners as expeditiously as possible. In the event the representation of the petitioners is rejected, the same should be supported by a reasoned order and the petitioners shall have a liberty to file a fresh petition in the subject matter of this petition.

The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

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JOSHI